

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----X  
THE TRUSTEES OF THE UNITED TEAMSTER FUND  
and THE TRUSTEES OF THE UNITED TEAMSTER  
PENSION FUND,

Plaintiffs,

MEMORANDUM & ORDER  
08-CV-4926 (JS)(ETB)

-against-

PHOENIX LABORATORIES, INC., ET AL.,

Defendants.

-----X  
APPEARANCES:

For Plaintiffs: Milo S. Silberstein, Esq.  
William J. Dealy, Esq.  
Dealy & Silberstein, LLP  
225 Broadway, Suite 1405  
New York, NY 10007

For Defendants: Mark William Geisler, Esq.  
Hoffinger Stern & Ross, LLP  
150 East 58<sup>th</sup> Street  
New York, NY 10155

SEYBERT, District Judge:

On December 8, 2008, Plaintiffs commenced this action.

On July 17, 2009, Plaintiffs filed an Amended Complaint.

Defendants Phoenix Laboratories, Inc., Evergood Products Corporation, Great Earth Companies, Inc., Great Earth International Franchising Corporation, Cyence Labs, Inc., and Cytodyne, LLC (hereafter, "the Corporate Defendants") failed to answer, move or otherwise respond to the Amended Complaint. So, on August 19, 2009, Plaintiffs moved for entry of a default judgment. On September 15, 2009, the Clerk of the Court

certified the Corporate Defendants' default. On September 18, 2009, the Court referred Plaintiffs' default judgment motion to Magistrate Judge E. Thomas Boyle for his Report and Recommendation ("R&R") concerning whether a default judgment should be entered and what, if any, damages should be awarded.

Magistrate Judge Boyle held an inquest on January 14, 2010. None of the Corporate Defendants appeared at this inquest.

On March 4, 2010, Magistrate Judge Boyle issued his R&R. None of the Corporate Defendants filed any objections to this R&R. Upon careful review and consideration, the Court ADOPTS Magistrate Judge Boyle's R&R in its entirety. Therefore, the Clerk of the Court is directed to enter a Judgment in Plaintiffs' favor as follows: (1) awarding Plaintiffs a default judgment against Defendants Phoenix Laboratories, Inc., Evergood Products Corp., Great Earth Companies, Inc., Great Earth International Franchising Corp., Cyence Labs, Inc., and Cytodyne, LLC; (2) awarding Plaintiffs the unpaid withdrawal liability in the amount of \$962,746, to be entered jointly and severally against all defaulting Corporate Defendants; (3) awarding Plaintiffs additional damages in the form of \$34,500 in delinquent contributions, \$2,300 in interest, \$6,900 in liquidated damages (a total of \$43,700), plus post-judgment interest to be calculated pursuant to 28 U.S.C. § 1961, all of

which are to be entered solely against Defendant Phoenix Laboratories, Inc.; and (4) awarding Plaintiffs attorneys' fees jointly and severally in the amount of \$7,775.42 against each defaulting Corporate Defendant and costs in the amount of \$617.18 per defaulting Corporate Defendant (a total of \$8,392.60 against each defaulting Corporate Defendant), for a total fee award of \$50,355.60. Thus, Plaintiffs' total monetary award amounts to \$1,056,801.60, plus post-judgment interest.

SO ORDERED.

/s/ JOANNA SEYBERT  
Joanna Seybert, U.S.D.J.

Dated: March 29, 2010  
Central Islip, New York